

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
SHREVEPORT DIVISION

LARRY SMITH and	§	
DIONNE SMITH	§	
	§	
v.	§	CA No. 5:20-CV-00837-EEF-KLN
	§	
3M COMPANY f/k/a MINNESOTA	§	
MINING & MANUFACTURING	§	
COMPANY and EMPIRE	§	
ABRASIVE EQUIPMENT COMPANY	§	

**PLAINTIFFS' RESPONSE TO DEFENDANT  
3M COMPANY'S RENEWED PARTIAL MOTION TO DISMISS**

COME NOW, LARRY SMITH and DIONNE SMITH, Plaintiffs, and file this Response to Defendant, 3M Company's Renewed Partial Motion to Dismiss (Ct. Doc. 35), and respectfully show the Court as follows:

Plaintiffs oppose 3M's 12(b)(6) renewed Motion for the same reasons Plaintiffs opposed its previous Motions (Ct. Docs. 9 & 19). Plaintiffs' causes of action against 3M are brought pursuant to the Louisiana Product Liability Act. Plaintiffs' other claims against 3M based on negligence, strict liability, misrepresentation, fraud, and implied warranty are permitted because Mr. Smith had exposure to silica and other dust while using the 3M 8710 respirator in his workplace prior to passage of the Louisiana Product Liability Act.

The grounds for Plaintiffs' opposition to 3M's renewed partial dismissal motion are fully set out in Plaintiffs' Response filed with the Court on October 1, 2020 (Ct. Doc. 15).

Plaintiffs amended their Original Complaint to withdraw their claim for punitive damages against 3M. Plaintiffs' First Amended Complaint (Ct. Doc. 16) was filed with the Court contemporaneously with Plaintiffs' Response to 3M Company's Partial Motion to Dismiss (Ct.

Doc. 15). In order to establish this Court's jurisdiction over the Defendants, the Court granted Plaintiffs leave to amend their First Amended Complaint by Court Order dated November 3, 2020 (Ct. Doc. 29). Thereafter, Plaintiffs filed their Second Amended Complaint (Ct. Doc. 30) which contains no claim for punitive damages.

For all the reasons given in Plaintiffs original Response (Ct. Doc. 15), Plaintiff's respectfully request that 3M's Motion for Partial Dismissal be denied.

Respectfully submitted this 9<sup>th</sup> day of December, 2020.

Respectfully submitted,

**MARTIN WALTON LAW FIRM**

/s/Michael B. Martin

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**ATTORNEYS FOR PLAINTIFFS**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served on all counsel of record on the 9<sup>th</sup> day of December, 2020, using the CM/ECF system which will send notification of such filing to all counsel of record who have registered as filing users of the system.

*/s/Michael B. Martin*  
Michael B. Martin